

USER'S GUIDE

Compatible Nonconforming Uses

- **What is a Compatible Nonconforming Use?**

Any use that was in existence at the time zoning was established, or in existence prior to the adoption of a zone amendment, which subsequently prohibited the use within the zone district, is known as a nonconforming use. So long as no structural alterations are made, the property may be sold and the use changed to another nonconforming use of the same use classification or a more restricted use permitted as-of-right in the zone district.

The compatible nonconforming use process is designed to provide for the expansion or other improvement of an existing legally established nonconforming use. The Board of Zoning Appeals may permit such expansion after having determined that the nonconforming use is compatible or can be made compatible, and will have no adverse impact upon the adjacent property owners or other permitted land uses in the surrounding neighborhood.

- **What are the criteria for the evaluation of a Compatible Nonconforming Use?**

The Board of Zoning Appeals (BZA) will consider the following elements of a site development plan when deciding a compatible nonconforming use application:

- a) The location and size of the property including setbacks and lot dimensions
- b) The use of the property on the effective date of this Resolution
- c) All uses adjacent to the property and within the surrounding neighborhood
- d) All existing structures, yards, utility easements, right-of-way, floodplains, and wooded areas adjacent to the property
- e) The density and intensity of the nonconforming use
- f) Landscaping
- g) Architectural treatment
- h) Traffic impact
- i) The reasons why the non-conforming use is compatible with and will have no adverse impact on the land uses permitted in the district in which it is located
- j) Nature and extent of additional protection from adverse impacts afforded to adjacent property owners.

In addition, the BZA may require appropriate conditions and safeguards to assure that the nonconformity does not adversely affect orderly development and the value of nearby property including, but not limited to: required improvement of, or modifications to existing improvements on, the property; limitations on hours of operations; and limitations on the nature of operations.

- **How do I apply for a Compatible Nonconforming Use?**

Applications for compatible nonconforming use zoning certificates shall be accompanied by site plans, structural details and additional information as outlined in the attached checklist. The completed application packet and application fee shall be filed directly with the Board of Zoning Appeals. You may schedule an appointment with the Administrator of the Board if you have questions or wish to further discuss details of a case prior to submission. *Requests for variance of a yard, bulk or parking standard must be clearly stated in the letter of application as submitted to the Board. Variance requests shall be filed at the same time as the compatible nonconforming use application and will require additional fees.*

- **Processing Procedure for a Compatible Nonconforming Use:**

Minimum processing time for a Compatible Nonconforming Use Zoning Certificate is typically 62 days.

1. Within 5 days after filing a complete application, the BZA Administrator sets a public hearing for between 30 and 62 days from that date.
2. A copy of the application is transmitted to the Regional Planning Commission for staff review and recommendation.
3. Within 20 days after filing a complete application, a staff report with a recommendation is sent to the BZA.
4. The BZA Administrator sends notice of the public hearing at least 10 days prior to such hearing to the applicant, Township and property owners within 200 ft. A legal advertisement is published in a local county newspaper.
5. BZA takes action within 30 days after public hearing.
6. If the application is approved:
 - a) Applicant must apply to the Rural Zoning Commission for a Zoning Certificate. Upon issuance, the Compatible Nonconforming Use Zoning Certificate is valid for a period no longer than six months unless has been issued or BZA has granted a time extension.
 - b) Applicant applies to the Building Department for a Building Permit.
7. When the development is complete a Final Zoning Inspection will be made and a Final Zoning Inspection Certificate will be issued.

HAMILTON COUNTY BOARD OF ZONING APPEALS

County Administration Building
138 E. Court Street, Room 804
Cincinnati, Ohio 45202
513-946-4502

CHECKLIST FOR FILING A COMPATIBLE NONCONFORMING USE APPLICATION

Applications for a compatible nonconforming use shall be **filed in person** with the Board of Zoning Appeals. A legal notice will be prepared by the Board of Zoning Appeals and placed in a newspaper of general circulation in the county two weeks prior to the public hearing. *The applicant will receive the bill for said legal notice.* The Board will also prepare, for the applicant, a typewritten list of names and complete addresses of the property owners of all lots and lands located within 200' of the property requesting the appeal. Said list will be prepared from the County Auditor's current tax list. *The office of the Board will execute all forms, including individual and legal notices, necessary for the processing of an application.*

Board of Zoning Appeals hearings are held in Room 805 of the County Administration Building, located at 138 East Court Street, Cincinnati, Ohio 45202

All complete applications shall include the following information. *Please submit this checklist with your application.*

1. THE LETTER (Please provide 1 copy)

An explicit typewritten statement addressed to the Board of Zoning Appeals, setting forth the following:

- _____ The location and size of the property
- _____ A clear and accurate description of the proposed construction or use of the property including the date the non-conforming use certificate was issued
- _____ State clearly the reasons why the non-conforming use is compatible with and will have no adverse impact on the land uses permitted in the district in which it is located
- _____ State clearly the extent of additional protection from adverse impacts afforded to the adjacent property owners including protection from aesthetic , lighting, traffic, noise, and other issues

2. THE SITE PLAN (Please provide 14 copies)

The site plan shall be drawn to scale of not less than 1 inch equals 50' and shall contain the following information.

- _____ Surveyor's Seal (*Required for all new dwellings, residential additions over 600 sq. ft., residential additions less than 10' from a property line and all commercial buildings.*)
- _____ Name of person(s) preparing the plan
- _____ Title, name of owner & name of builder
- _____ North Arrow (North to top of plan)
- _____ Property lines, property dimensions, street name(s), right-of-ways, site size
- _____ Intensity in terms of Impervious Surface Ratio (ISR) calculations for all non-residential applications or density in terms of dwelling units per acre for residential applications

Existing and proposed buildings & other structures including the use of each structure

Distance from structures to property lines

Paving, parking areas, driveways, walks etc.

Parking space, aisle & drive dimensions & parking analysis

Identify land uses on parcels adjoining the proposed site and within the surrounding neighborhood

Streetscape & boundary buffer yards & interior landscape areas

Existing & proposed grades and flood plains

Easements & purpose of easements

Note: Modification or changes to the plats and or plans approved by the Board are subject to review by the Board and a new case could be required by the Board or the Board's Administrator.

3. THE LANDSCAPE & LIGHTING PLAN (Please provide 14 copies)

The landscape plan shall be drawn to scale of not less than 1 inch equals 50' and shall contain the following information. A landscape plan is not required for single family dwellings and similar uses not subject to buffering and landscape standards but when required for other uses shall contain the following information.

Landscape Architects Seal or plants selected from Appendix A-2 "Recommended Plant List"

Streetscape buffer yard width & location

Boundary buffer yard(s) width & location

Interior landscape areas width & location

Detailed schedule of planting materials including type, caliper and location within each yard or area

Location of any exterior light fixtures or poles

4. THE STRUCTURAL DRAWING – Provide two (2) reduced sets of elevation drawings w/architectural treatments.

5. THE APPLICATIONS – Complete one (1) copy each of the attached BZA application forms.

6. THE FEE \$ _____ + Legal Advertisement

An application fee is required when the appeal is filed. Contact the Board of Zoning Appeals at 946-4502 for additional information. (All fees are nonrefundable and must be made payable to the Board of Zoning Appeals.)

Checklist Name _____

Prepared _____

by: Address _____

Phone _____ E-Mail _____

Date _____